

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AUTO CLUB GROUP INSURANCE  
COMPANY, A MICHIGAN  
CORPORATION,  
Petitioner,

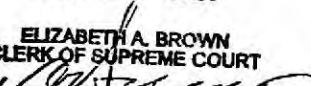
vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
NANCY L. ALLF, DISTRICT JUDGE,  
Respondents,  
and  
JOAN CALHOUN,  
Real Party in Interest.

No. 81682-COA

**FILED**

OCT 23 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DENYING PETITION FOR  
WRIT OF MANDAMUS OR PROHIBITION*

This original petition for a writ of mandamus or, alternatively, prohibition challenges a district court order denying a motion in limine to exclude evidence and discovery related to a prior lawsuit and the resulting settlement agreement between petitioner and real party in interest.

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. See NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions when such proceedings are in excess of the district court's jurisdiction. See NRS 34.320; *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). This court has discretion as to whether to entertain a

petition for extraordinary relief and will not do so when the petitioner has a plain, speedy, and adequate remedy at law. NRS 34.170; NRS 34.330; *D.R. Horton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007). The opportunity to appeal a final judgment generally constitutes a plain, speedy, and adequate remedy that precludes writ relief with respect to challenges to the district court's pretrial evidentiary decisions. *See Williams v. Eighth Judicial Dist. Court*, 127 Nev. 518, 524, 262 P.3d 360, 364 (2011). Petitioner bears the burden of demonstrating that extraordinary relief is warranted. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Having considered the petition and supporting documents, we conclude that petitioner has failed to meet its burden of demonstrating that extraordinary writ relief is warranted. *See id.* In particular, petitioner has a plain, speedy, and adequate remedy from the order denying its motion in limine, which was entered without prejudice, in that it can raise specific objections to the challenged evidence at trial. *See D.R. Horton*, 123 Nev. at 474, 168 P.3d at 736. And petitioner may challenge the district court's evidentiary determinations on appeal from the final judgment, if petitioner is aggrieved thereby. *See Williams*, 127 Nev. at 524, 262 P.3d at 364. While our supreme court has recognized that orders challenging the admission of evidence may, in some cases, warrant consideration through a petition for extraordinary writ relief, petitioner has not met its burden of demonstrating that the order denying its motion in limine at issue here fits within any of the narrow exceptions that would support our consideration of this matter. *See id.* at 524-25, 262 P.3d at 364-65 (outlining exceptions to the general rule against entertaining admissibility-related writ petitions

when an appeal from the final judgment is available). Accordingly, we deny the petition. NRAP 21(b)(1); *D.R. Horton*, 123 Nev. at 475, 168 P.3d at 737.

It is so ORDERED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Nancy L. Allf, District Judge  
The Feldman Firm, P.C.  
Matthew L. Sharp, Ltd.  
Zebrowski Law  
Eighth District Court Clerk

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<sup>1</sup>In light of this order, petitioner's motion to stay the underlying proceeding is denied as moot.